

REMARKS

Claims 74-87 are pending in the application as of entry of this amendment. Claims 2-8, 64-65, 67-68 and 71-73 were withdrawn from consideration by the Examiner in the Office action dated December 13, 2007. Claims 74-87 are added herein as new claims. These claims are identical to the previously examined apparatus claims which were presented in the Response to Office Action Dated November 14, 2006, which was filed on March 14, 2007. No new matter has been added by way of amendment.

Examiner's Withdrawal of Pending Claims

In the previous Office action the Examiner asserted that claims 2-8, 64-65, 67-68 and 71-73 are directed to an invention that is independent and distinct from the invention originally claimed. Applicants respectfully disagree with this assertion. The Examiner further withdrew these claims from consideration as being directed to a non-elected invention. Applicants also disagree that the claims are directed to a non-elected invention as no previous election has been made with respect to method and apparatus claims.

The method claims withdrawn by the Examiner are directed to a method of optimizing a plasma processing apparatus. The previously presented apparatus claims were directed to an optimized plasma processing apparatus having features obtained from the practice of the claimed method. Accordingly, the optimized apparatus and method of optimizing the apparatus are connected at least in design. As stated in MPEP 802.01(II):

"Two or more inventions are related (i.e., not independent) if they are disclosed as connected in at least one of design (e.g., structure or method of manufacture), operation (e.g., function or method of use), or effect. Examples of related inventions include combination and part (subcombination) thereof, **process and apparatus for its practice, process and product made**, etc... Related inventions are distinct if the inventions *as claimed* are not connected in at least one of design, operation, or effect (e.g., can be made by, or used in, a materially different process) and wherein at least one invention is PATENTABLE (novel and nonobvious) OVER THE OTHER (though they may each be unpatentable over the prior art)." (Emphasis in bold added; other emphasis in original)

Clearly, the withdrawn method claims are not independent from the previously presented apparatus claims, and the withdrawal of these claims is improper. Applicants therefore respectfully request that the Examiner reinstate and examine withdrawn claims 2-8, 64-65, 67-68 and 71-73.

SUMMARY

Applicants respectfully request that the presently withdrawn claims be reinstated and examined in view of the preceding arguments. Applicants further submit that claims 2-8, 64-65, 67-68 and 71-73 and also new claims 74-87 are in condition for allowance. The Examiner is respectfully requested to contact the undersigned in the event that a telephone interview would expedite allowance of the claims.

Respectfully submitted,

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